

S. 1920

To improve the administration of oil and gas leases on Federal lands, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. MURKOWSKI (for himself, Mr. NICKLES, and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To improve the administration of oil and gas leases on Federal lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

SECTION 1. This Act may be referred to as the “Federal Oil and Gas Lease Management Improvement Act of 1998”.

7 FINDINGS AND PURPOSES

8 SEC. 2. (a) Congress finds that—

(1) State governments have a long and successful history of regulation of operations to explore for

1 and produce oil and gas. The special role of the
2 States was recognized by Congress in 1935 through
3 its ratification under the Constitution of the Inter-
4 state Compact to Conserve Oil and Gas.

5 (2) Under the guidance of the Interstate Oil
6 and Gas Compact Commission, States have estab-
7 lished effective regulation of the oil and natural gas
8 industry and subject their programs to periodic peer
9 review through the Commission.

10 (3) It is significantly less expensive for State
11 governments than for the Federal Government,
12 through its Bureau of Land Management, to regu-
13 late oil and gas lease operations on Federal lands.

14 (4) Significant cost savings could be achieved,
15 with no reduction in environmental protection or in
16 the conservation of oil and gas resources, by having
17 the Federal Government defer to State regulation of
18 oil and gas lease operations on Federal lands.

19 (5) State governments carry out regulatory
20 oversight on State, private, and Federal lands. Oil
21 and gas companies operating on federal lands are
22 burdened with the additional cost and time of dupli-
23 cative oversight by both State and Federal conserva-
24 tion authorities. Additional cost savings could be

1 achieved within the private sector by having the Bu-
2 reau of Land Management defer to State regulation.

3 (6) The Federal Government is presently cast
4 in dual opposing roles as a mineral owner and regu-
5 lator. State regulation of oil and gas operations on
6 Federal lands would eliminate this conflict of inter-
7 est.

8 (7) It remains the responsibility of the Sec-
9 retary of the Interior to carry out the Federal policy
10 set forth in the Mining and Minerals Policy Act of
11 1970 (30 U.S.C. § 21a) to foster and encourage pri-
12 vate sector enterprise in the development of eco-
13 nomically sound and stable domestic mineral indus-
14 tries, and the orderly and economic development of
15 domestic mineral resources and reserves, including
16 oil and gas resources.

17 (8) Resource management analyses and surveys
18 conducted under the conservation laws of the United
19 States benefit the public at large and are an expense
20 properly borne by the Federal Government.

21 (b) The purposes of this Act are—

22 (1) to transfer from the Bureau of Land Man-
23 agement to each State in which the Federal lands
24 are present authority to regulate oil and gas oper-
25 ations on leased tracts and related operations as

1 fully as if the operations were occurring on privately
2 owned land,

3 (2) to share the costs saved through more effi-
4 cient State enforcement among State governments
5 and the Federal treasury,

6 (3) to prevent the imposition of unwarranted
7 delays and recoupments of Federal administrative
8 costs on Federal oil and gas lessees,

9 (4) to effect no change in the administration of
10 Indian lands, and

11 (5) to ensure that those funds deducted from
12 the States' net receipt share are directly tied to ad-
13 ministrative costs related to oil and gas on Federal
14 lands.

15 DEFINITIONS

16 SEC. 3. For purposes of this Act—

17 (1) The term “Federal lands” means all lands
18 and interests in lands owned by the United States
19 which are subject to the mineral leasing laws, includ-
20 ing mineral resources or mineral estates reserved to
21 the United States in the conveyance of a surface or
22 nonmineral estate. The term excludes “Indian
23 lands” as that term is defined in 30 U.S.C.
24 § 1702(3) and submerged lands on the “Outer Con-
25 tinental Shelf” as that term is defined in the Outer
26 Continental Shelf Lands Act, 43 U.S.C. §§ 1331 et

1 seq., other than submerged lands subject to section
2 8(g) of that Act, 43 U.S.C. § 1337(g).

3 (2) The term “oil and gas conservation author-
4 ity” means the agency or agencies in each State re-
5 sponsible for regulating for conservation purposes
6 operations to explore for and produce oil and natural
7 gas.

8 APPLICATION OF ACT

9 SEC. 4. For the purposes of this Act, Federal lands
10 subject to section 8(g) of the Outer Continental Shelf
11 Lands Act are deemed to be within the state with which
12 revenues from those lands are shared. However, nothing
13 in this Act shall be construed to give a State a property
14 right or interest in any Federal lease or land.

15 TITLE I—DEFERRAL TO STATE REGULATION
16 OF OIL AND GAS LEASE OPERATIONS ON
17 FEDERAL LANDS

18 SEC. 101. (a) No sooner than 6 months from the date
19 of enactment of this Act, a State may notify the Secretary
20 of the Interior of its intent to accept authority for regula-
21 tion of operations, as described in paragraphs (1) through
22 (11) of this subsection, under oil and gas leases on Federal
23 lands within the State. Effective 6 months after the Sec-
24 retary receives the state’s notice, the authority is trans-
25 ferred from the Bureau of Land Management to the State.
26 This authority includes—

1 (1) processing and approving Applications for
2 Permits to Drill, subject to surface use agreements
3 and other terms and conditions determined by the
4 Secretary;

5 (2) production operations;

6 (3) well testing;

7 (4) well completion;

8 (5) well spacing;

9 (6) communization;

10 (7) conversion of a producing well to a water
11 well;

12 (8) well abandonment procedures;

13 (9) inspections;

14 (10) enforcement activities; and

15 (11) site security.

16 (b) Effective on the date of transfer, the Bureau of
17 Land Management shall no longer include the charges as-
18 sociated with performing those authorities transferred in
19 subsection (a) in costs charged against the State under
20 section 35(b) of the Mineral Leasing Act (30 U.S.C.
21 § 191(b)).

22 (c) The Bureau of Land Management and the Forest
23 Service shall retain authority over the issuance of leases
24 and the approval of surface use plans, and shall spend ap-
25 propriated funds to assure that the agency is making time-

1 ly decisions respecting oil and gas leasing, taking into con-
2 sideration multiple uses of Federal lands, socioeconomic
3 and environmental impacts, and the results of consulta-
4 tions with state and local government officials.

5 SEC. 102. (a) Following the transfer of authority, no
6 Federal agency shall exercise the authority formerly held
7 by the Bureau of Land Management as to oil and gas
8 lease operations and related operations on Federal lands.

9 (b) Following the transfer of authority, each State
10 shall enforce its own laws, regulations, and requirements
11 pertaining to oil and gas lease operations and related oper-
12 ations with due regard to the national interest in the expe-
13 dited, environmentally sound development of oil and gas
14 resources in a manner consistent with oil and gas con-
15 servation principles.

16 (c) The Bureau of Land Management may continue
17 to enforce any pending actions respecting acts committed
18 prior to the date authority is transferred to a State under
19 section 101(a) until those proceedings are concluded.

20 (d) All applications respecting oil and gas lease oper-
21 ations and related operations on federal lands pending be-
22 fore the Bureau of Land Management on the date author-
23 ity is transferred shall be immediately transferred to the
24 oil and gas conservation authority of the State in which
25 the given lease is located. The oil and gas conservation

1 authority shall act on the application in accordance with
2 its own laws, regulations, and requirements.

3 TITLE II—USE OF COST SAVINGS FROM STATE
4 REGULATION

5 SEC. 201. Subject to available appropriations, the
6 Secretary of the Interior shall compensate any State for
7 those costs incurred to carry out the authorities trans-
8 ferred under section 101(a). Payment shall be made not
9 less than every quarter during the fiscal year. Each State
10 seeking compensation shall report to the Secretary a cost
11 breakdown for the authorities transferred. Compensation
12 to a State may not exceed 50 percent of the Bureau of
13 Land Management's allocated cost, under section 35(b) of
14 the Mineral Leasing Act, for that State for the fiscal year
15 ending September 30, 1997. The Secretary will adjust the
16 maximum level of cost compensation at least once every
17 two years to reflect any increases in the Consumer Price
18 Index (all items, United States city average) as prepared
19 by the Department of Labor, using 1997 as the baseline
20 year.

21 SEC. 202. Section 35 of the Mineral Leasing Act (30
22 U.S.C. § 191) is amended by adding at the end of sub-
23 section (b) the following:

24 “(6) The Secretary shall not include, for the
25 purpose of calculating the deduction under para-

1 graph (1), costs of preparing resource management
2 planning documents and analyses for areas in which
3 oil and gas leasing is excluded or areas in which the
4 primary activity under review is not oil and gas leasing and development.”.

6 TITLE III—STREAMLINING AND COST
7 REDUCTION

8 SEC. 301. (a) Notwithstanding sections 304 and 504
9 of Public Law 94–579 (43 U.S.C. §§ 1734 and 1764) and
10 section 9701 of title 31, United States Code, the Department of the Interior may not recover its costs with respect
11 to applications and other documents relating to oil and
12 gas leases.

14 (b) The Bureau of Land Management and the Forest
15 Service shall complete any resource management planning
16 documents and analyses within 90 days of the agency’s
17 receipt of any offer, application, or request for which planning document or analysis must be prepared. If the agency
18 is unable to complete the document or analysis within that
19 time, it shall notify the applicant or lessee of the opportunity to prepare the required document or analysis for
20 the agency’s review and use in decision making. The agency for which the document or analysis is prepared shall
21 reimburse the applicant or lessee for costs directly associated with the preparation of the document or analysis.

1 SEC. 302. (a) The Bureau of Land Management and
2 the Forest Service shall assure the timely issuance of Fed-
3 eral agency decisions respecting oil and gas leasing and
4 operations on federal lands.

5 (b) The Bureau of Land Management shall accept
6 or reject an offer to lease within 90 days of the filing of
7 the offer. If an offer is not acted upon within that time,
8 the offer is deemed accepted.

9 (c) The Bureau of Land Management and a State
10 that has accepted transfer under section 101(a) shall ap-
11 prove or disapprove an Application for Permit to Drill
12 within 30 days of receipt of a complete application. If the
13 application is not acted upon within that time, the applica-
14 tion is deemed approved.

15 (d) The Bureau of Land Management or the Forest
16 Service, as the case may be, shall approve or disapprove
17 a surface use plan within 30 days of receipt of a complete
18 plan.

19 (e) From the time that a Federal oil and gas lessee
20 or operator files a notice of administrative appeal of a de-
21 cision or order of an officer or employee of the Depart-
22 ment of the Interior or the Forest Service respecting a
23 Federal oil and gas Federal lease, the Department or
24 Service shall have two years to issue a final decision in

1 that appeal. If no final decision has been issued within
2 that time, the appeal is deemed granted.

3 SEC. 303. (a) The Bureau of Land Management and
4 the Forest Service shall assure that unwarranted denials
5 and stays of lease issuance and unwarranted restrictions
6 on lease operations are eliminated from the administration
7 of oil and as leasing on Federal lands.

8 (b) Lands designated as available for multiple use
9 under Bureau of Land Management resource management
10 plans and Forest Service leasing analyses shall be avail-
11 able for oil and gas leasing without lease stipulations more
12 stringent than restrictions on surface use and operations
13 imposed under the laws and regulations of the relevant
14 State oil and gas conservation authority unless the Bureau
15 or Service includes in its decision approving the manage-
16 ment plan or leasing analysis a written explanation of why
17 more stringent stipulations are warranted. Any decision
18 to require a more stringent stipulation shall be adminis-
19 tratively appealable and, following a final agency decision,
20 judicially reviewable under the Administrative Procedure
21 Act.

22 (c) If the Bureau of Land Management or the Forest
23 Service rejects an offer to lease on the ground that the
24 land is unavailable for leasing, the respective agency shall
25 provide a written, detailed explanation of the reasons the

1 land is unavailable for leasing. Where the determination
2 of unavailability is based on a previous resource manage-
3 ment decision, the explanation shall include a careful as-
4 sessment of whether the reasons underlying the previous
5 decision are still persuasive. The agency may not reject
6 an offer to lease lands available for leasing on the ground
7 that the offer includes lands unavailable for leasing, and
8 it must segregate lands available from those unavailable,
9 upon the offeror's request following notice by the agency,
10 before acting on the offer to lease.

11 (d) The Bureau of Land Management or the Forest
12 Service shall provide a written, detailed explanation of the
13 reasons for disapproving or requiring modifications of any
14 surface use plan or Application for Permit to Drill.

15 (e) A decision of the Bureau of Land Management
16 or the Forest Service respecting an oil and gas lease shall
17 be effective pending administrative appeal to the appro-
18 priate office within the Department of the Interior or the
19 Department of Agriculture unless that office grants a stay
20 in response to a petition satisfying the criteria for a stay
21 established by 43 CFR § 4.21(b)(1) (1997).

22 SEC. 304. By March 31, 1999, the Secretary of the
23 Interior and the Secretary of Agriculture will jointly sub-
24 mit a report to the President of the Senate and the Speak-
25 er of the House of Representatives explaining the most

1 efficient means of eliminating overlapping jurisdiction, du-
2 plication of effort, and inconsistent policymaking and pol-
3 icy implementation as between the Bureau of Land Man-
4 agement and the Forest Service. The report will include
5 recommendations on changes in statute needed to imple-
6 ment the report's conclusions.

7 SEC. 305. (a) By March 31, 1999, the Secretary of
8 the Interior will publish, through notice in the Federal
9 Register, a national inventory of the oil and gas reserves
10 and potential resources underlying Federal lands (other
11 than lands governed by section 8(g) of the Outer Con-
12 tinental Shelf Lands Act). The inventory will indicate
13 what percentage of those reserves and resources is cur-
14 rently available for leasing and development. The inven-
15 tory will further detail what percentage of the reserves and
16 resources are on—

17 (1) lands now open for leasing but which have
18 never been leased;

19 (2) lands open for leasing or development sub-
20 ject to no surface occupancy stipulations; and

21 (3) lands open for leasing or development sub-
22 ject to other lease stipulations which have signifi-
23 cantly impeded or prevented, or are likely to signifi-
24 cantly impede or prevent, development.

1 (b) By September 30, 1999, public comments on the
2 inventory will be filed. The Secretary of the Interior shall
3 specifically invite comments on the effect of Bureau of
4 Land Management resource management decisions on
5 past and future oil and gas development.

6 (c) By March 31, 2000, the Secretary of the Interior
7 will file a report with the President of the Senate and the
8 Speaker of the House of Representatives to be comprised
9 of his revised inventory and other responses to the public
10 comments. The report will specifically indicate what steps
11 the Bureau of Land Management will take to increase the
12 percentage of lands open for development of oil and gas
13 resources.

○